

Internal Revenue Service
Director, Exempt Organizations

Department of the Treasury
P.O. Box 2508 - EP/EO
Cincinnati, OH 45201

Date: AUG 27 2002

Employer Identification Number:
[REDACTED]

Person to Contact - I.D. Number:
[REDACTED]

Contact Telephone Numbers:
[REDACTED]

Phone
FAX

Dear Sir:

We have considered your appl
under the provisions of section
Income Tax Regulations. Bas
not qualify for the reasons set

[REDACTED]
ption from Federal income tax
enue Code of 1986 and its applicable
n, we have determined that you do

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code. However, we have concluded that you do not qualify under another subsection.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a Trust, or Form 1120 if you are a corporation or an unincorporated association.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

[REDACTED]
[REDACTED]

If we do not hear from you within the time specified, this will become our final determination.

Sincerely,

W. J. Lerner
Director, Exempt Organizations

Enclosures: 3

cc: [REDACTED]

Enclosure 1

FACTS

You incorporated in [REDACTED] to establish, maintain and conduct a cooperative for the primary and mutual benefit of its members; to promote the [REDACTED] to foster and promote the interests of franchisees of [REDACTED] Inc. An Ohio corporation (together with any successor, assign or affiliate thereto, collectively referred to as the "Franchisor"); to form an organized means of communication between the Franchisor and franchisees of the Franchisor; and to do any and all proper things for the advancement of the legitimate interests of the members as franchisees of the Franchisor.

And to engage in any lawful act or activity for which corporations may be organized under [REDACTED], except as herein prohibited or forbidden by the Bylaws of the Association, and to conduct its business, promote its purposes and carry on its operations in any and all of its branches and maintain offices both within and without [REDACTED] in any and all States of the United States of America, in the District of Columbia, and in any or all commonwealths, territories, dependencies, colonies, possessions, agencies or instrumentalities of the United States of America and of foreign countries.

You are a membership organization. Any person, firm or entity which is franchised by [REDACTED] which operates one or more [REDACTED] franchised restaurants in the United States, Canada and such other countries and territories may become a member.

An attachment to your 1024 application states the purposes of the organization are:

- Establish what issues are important to its members and formulate possible solutions to these issues to better as a whole the members individuals restaurant operations.
- Serve as a means of protection for the members if ever the franchisor acted adversely toward the franchise community or violated any of the terms of the franchise agreement.
- Be a communications tool to allow the members to freely share ideas and information in order to better operate their franchises
- Serve as a communications line between the franchisor and the members.

Your letter dated [REDACTED] states, "The organization is organized for the purpose of uniting the voice of the members of the franchise community. The board, which represents the members of the organization, meet regularly with the franchisor to discuss various issues as well as the direction of the franchise in order to reach compromises that are fair to both the franchisor as

well as the franchisees. In addition, the members are able to share ideas and information to better their businesses and thus will ultimately be used to benefit their customers."

"Issues that are of importance to the members of the organization include assistance with renewal of franchise agreements; issues regarding transferring of their franchise stock and assets, customer relations, product development, and conformity in the franchises' restaurant setup. The [redacted] will be beneficial to the franchisor, the members of the organization, and ultimately the customers."

"The organization is organized so that each board member represents a regional group of franchisees. The members are able to voice their concerns, issues, and ideas to their board member representative. These concerns, issue and ideas are brought to the attention of the franchisor."

Your letter dated [redacted] states, "The purpose of the [redacted] is to promote higher business standards and better business methods for the franchisees as well as to encourage uniformity and cooperation within the franchise community. The [redacted] is similar to the [redacted] in that its purpose is to educate its members on specific business practices within the restaurant industry, etc. In addition, the [redacted] will provide seminars related to drinking and driving responsibility, bartender education on drinking issues, etc."

Income is/will be derived from membership dues and marketing/promotion programs with vendors.

LAW

Section 501(c)(6) of the Internal Revenue Code of 1986 provides exemption from Federal income tax for business leagues not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulation states that a business league is an association of persons having some common business interests, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. The Regulations further state that the activities of a business should be directed to the improvement of business conditions in one or more lines the business as distinguished from the performance of particular services for individual members. An organization whose purposes is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining is not a business league.

Revenue Ruling 56-65, published in Cumulative Bulletin 1956-1, on page 199, held that a local organization whose principal activity consisted of furnishing particular information and specialized individual service to its individual members engaged in a particular industry through publications and other means to effect economies in the operation of their individual businesses was performing particular services for individual persons. Such organization did not qualify for exemption under section 501(c)(6) of the Internal Revenue Code as a business league even though it performed functions, which were of benefit to the particular industry and the public generally.

Revenue Ruling 58-294, published in Cumulative Bulletin 1958-1, on page 244, held that an association of license dealers in a certain type of patented product did not qualify as a business league where the association owned the controlling interest in the corporation holding the basic patent, was engaged mainly in furthering the business interest of its member dealers, and did not benefit people who manufactured competing product of the same type covered by the patent.

Revenue Ruling 67-77, published in Cumulative Bulletin 1967-1, on page 138, held that an association of dealers selling a particular make of automobile which engaged in financing general advertising campaigns to promote the sale of that particular make was held not exempt because it was performing particular services for its members rather than promoting a line of business, i.e., the automotive industry as a whole. Membership in the organization was restricted to dealers who held franchises for the sale of the automobiles designated in the area. Restriction of membership precludes exemption under section 501(c)(6) of the Code.

Revenue Ruling 68-264, published in Cumulative Bulletin 1968-1, on page 264 defines a particular service for the purposes of section 501(c)(6) the Code as being activity that serves as a convenience or economy to the members of the organization in the operation of their businesses.

Revenue Ruling 83-164, published in Cumulative Bulletin 1983-2, on page 95, held that an organization whose members represent diversified businesses that own, rent, or lease computers produced by a single computer manufacturer does not qualify for exemption under section 501(c)(6) for the Code.

In National Muffler Dealers' Association v. U.S. 440 U.S. 472 (1979) a trade association confined its membership to dealers franchised by a particular company and its activities to the business of that company. In this case, the Supreme Court ruled that the organization was not entitled to exemption under section 501(c)(6) since its activities and membership does not serve the industry as a whole but only a segment of a line of business.

LINE OF BUSINESS

For exemption purposes, a line of business is a trade or occupation, entry into which is not restricted by a patent, trademark, or similar device which would not allow private parties to restrict the right to engage in the business. A "segment" of a line of business is not considered a line of business under section 501(c)(6) for the Code.

Membership in your organization is restricted to franchisees of [REDACTED]. You stated that you are similar to the [REDACTED]. The [REDACTED] is a membership organization comprised of improving the restaurant industry as a whole. Your organization does not improve the entire [REDACTED] whole but a particular segment of the industry. Revenue Rulings 58-294, 67-77, 83-164 are [REDACTED] Muffler Dealers' Association v. U.S., supra.

PARTICULAR SERVICES TO MEMBERS/PRIVATE BEN.

Your activities, i.e., assistance with renewal of franchise agreements, transferring of members franchise stock and assets; product development and sharing of information to improve their businesses is a particular service to members. Through these activities your organization has the means to effect economies in the operation of your members individual businesses. Revenue Rulings 56-65 and 68-264. Supra.

CONCLUSION

Our review of the application filed by your organization and the cited published precedence indicates your organization does not operate within the purview of section 501(c)(6). Your membership is limited to franchisees of [REDACTED] and does not include members of the industry as a whole. Your activities are of a benefit only to the members of your association. Thus, your failure to improve the industry as a whole and particulars services to your members serves to defeat exemption.